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July 15, 2016

By Electronic Filing

Catherine O'Hagan Wolfe
Clerk of Court
United States Court of Appeals, Second Circuit

Re: Strubel v. Comenity Bank, Docket No. 15-528

Dear Ms. Wolfe:

This firm represents Defendant-Appellee in the above captioned appeal. This letter is submitted in response to Appellant's Rule 28(j) letter submitted July 6, 2016. (ECF No. 97). Appellant submits the Eleventh Circuit's non-published and non-precedential decision in *Church v. Accretive Health, Inc.*, No. 15-15708 (11th Cir. July 6, 2016). Appellee respectfully submits that the Eleventh Circuit's decision has no bearing on the standing issue before this Court for the following reasons.

First, as noted above, the decision is non-published and non-precedential. *See* Eleventh Circuit Local Rule 36-2 ("Unpublished opinions are not considered binding precedent . . ."). Furthermore, even were it a published and precedential decision, it would not be binding upon this Court.

Second, *Church* is readily distinguishable from the issue regarding standing before this Court in the instant appeal. Primarily, unlike counsel in *Church*, Appellant's counsel in this appeal during oral argument unequivocally admitted that Appellant had suffered no actual injury as a result of Comenity's alleged violation of Truth-in-Lending Act ("TILA").

Moreover, *Church* involved a claim under the Fair Debt Collection Practices Act while this matter involves a claim under the TILA. The conduct regulated by the FDCPA is not the same conduct at issue in this case. In any event, unlike in *Church*, under the undisputed facts of this case there can be no dispute that Appellant did not suffer any injury by way of

DMEAST #26379707 v1

Catherine O'Hagan Wolfe
July 15, 2016
Page 2

any conduct that Congress sought to address by way of the particular provisions of TILA at issue. *See* Appellee's Supplemental Brief (ECF No. 87) at pages 4-6.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'MCB', followed by a long horizontal line and a stylized 'A.' at the end.

Martin C. Bryce, Jr.

MCB/gpa

cc: All Counsel of Record (Via ECF)